

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THEODORE JUSTICE,

Case No. 24-11936

Plaintiff,
v.

F. Kay Behm
United States District Judge

ALLY FINANCIAL, INC.,

Curtis J. Ivy, Jr.
United States Magistrate Judge

Defendant.
_____ /

**OPINION AND ORDER ACCEPTING AND ADOPTING
THE MAGISTRATE JUDGE’S FEBRUARY 13, 2025,
REPORT AND RECOMMENDATION (ECF No. 27) AND
GRANTING LEAVE TO AMEND (ECF No. 28)**

Currently before the court is Magistrate Judge Ivy’s February 13, 2025 Report and Recommendation. (ECF No. 27). Magistrate Judge Ivy recommends that Defendant’s Motion to Dismiss (ECF No. 17) be dismissed without prejudice (ECF No. 27, PageID.342), that Plaintiff be granted an opportunity to file an amended complaint to cure deficiencies in the complaint, and that Plaintiff’s request for injunctive relief, his “Motion to Stay Interest and Fees and Allow Minimum Payments” (ECF No. 21), be denied. The court is fully advised in the premises and has reviewed the record and the pleadings. Neither party has filed timely objections. “[T]he failure to object to the magistrate

judge's report[] releases the Court from its duty to independently review the matter." *Hall v. Rawal*, 2012 WL 3639070 (E.D. Mich. Aug. 24, 2012) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). The court nevertheless agrees with the Magistrate Judge's recommended disposition. The court notes that Plaintiff has since filed two documents, the first a "Motion to Amend Complaint" (ECF No. 28) with proposed amended complaint, and the second a "Response to the Report in Recommendation" (ECF No. 29) "concurring" in (not objecting to) the Magistrate Judge's report and recommendation. The court **ACCEPTS** and **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 27) and **DENIES** the Motion to Dismiss (ECF No. 17) **WITHOUT PREJUDICE**. Defendant may refile their motion if they wish after Plaintiff has an operative amended pleading. Because Plaintiff's Motion to File Amended Complaint is coterminous with the Magistrate Judge's recommended disposition of permitting amendment, that motion (ECF No. 28) is **GRANTED**. The court notes that Plaintiff attached his proposed amended complaint to that motion. To clarify the record for all parties, it is **FURTHER ORDERED** that Plaintiff has 21 calendar days to file his amended complaint with the court as a

separate filing. However, if no new filing is received in that time frame, then the proposed amended complaint contained, with exhibits, in ECF No. 28 shall at that point become his operative amended complaint. Based on Plaintiff's concurrence in, and lack of objections to, the report and recommendation, Plaintiff's motion for injunctive relief (ECF NO. 21) is **DENIED**.

SO ORDERED.

Date: March 14, 2025

s/F. Kay Behm
F. Kay Behm
United States District Judge